

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**HIGHLAND PARK CDO I GRANTOR
TRUST, SERIES A,**

Plaintiff,

Case No. 08 CV 01670 (NRB)

-against-

**NOTICE OF MOTION
TO DISMISS THE COMPLAINT
OR STAY THE PROCEEDINGS**

**MATTHEW STUDER, FRED GRAFT,
ERNIE MALAS, AND PETER
CORATOLA,**

Defendants.


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PLEASE TAKE NOTICE, that upon the annexed affidavit of Daniel E. Katz, Esq., duly sworn to on May 23, 2008, together with the exhibits annexed thereto, the accompanying Memorandum of Law in support of this Motion, and upon all of the pleadings and proceedings heretofore had herein, Defendants Matthew Studer, Fred Graft, Ernie Malas, and Peter Coratola (collectively, "Defendants") will move this Court before the Honorable Naomi Reice Buchwald, United States District Judge, at the Courthouse located at 500 Pearl Street, New York, New York, on May 30, 2008 at 9:30 a.m., or as soon thereafter as counsel can be heard for an Order, (i) pursuant to Rules 12(b)(7) and 19 of the Federal Rules of Civil Procedure, dismissing the Complaint of Plaintiff Highland Park CDO I Grantor Trust, Series A ("Plaintiff" or "Highland Park") in its entirety on the basis that Plaintiff has failed to name an indispensable party, to wit, non-party Wells Fargo Bank, N.A. ("Wells Fargo" or "Senior Lender"), which holds an interest in a loan that is senior to Plaintiff's purported interest in a junior loan agreement, or, in the alternative; (ii) pursuant to the Court's inherent authority, staying any and all proceedings in the instant action pending resolution of a related action in an Ohio Trial Court, entitled *Wells Fargo Bank, N.A. v. Platinum Lodging LLC, et al.*, Case No. 08CVE03-03668

(Franklin Cty.) (the "Ohio Action"); and (iii) such other and further relief as this Court deems just and proper under the circumstances.

Dated: New York, New York
May 23, 2008

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